



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC-2016-0270]

“Guidance for Implementation of 10 CFR 50.59, ‘Changes, Tests, and Experiments’”

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG-1334, “Guidance for Implementation of 10 CFR 50.59, ‘Changes, Tests, and Experiments.’” This draft regulatory guide provides licensees and applicants with a method that the staff of the NRC considers acceptable for use in complying with the Commission’s regulations on the process by which licensees may make changes to their facilities and procedures, as described in the safety analysis report, without prior NRC approval, under certain conditions.

DATES: Submit comments by **[INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specified subject):

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0270. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact

the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: OWFN-12H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Brian Harris, Office of Nuclear Reactor Regulation, telephone: 301-415-2277; e-mail: Brian.Harris2@nrc.gov and Mark Orr, Office of Nuclear Regulatory Research, telephone: 301-415-6003; e-mail: Mark.Orr@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2016-0270 when contacting the NRC about the availability of information regarding this action. You may obtain publically-available information related to this action, by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0270.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “[ADAMS Public Documents](#)” and then select “[Begin Web-based ADAMS Search](#).” For problems with ADAMS,

please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The draft regulatory guide is electronically available in ADAMS under Accession No. ML16089A381. The regulatory analysis for DG-1334 is available in ADAMS under Accession number ML16089A379.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2016-0270 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at <http://www.regulations.gov> as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a draft regulatory guide (DG-1334) in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific

issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide, entitled, “Guidance for Implementation of 10 CFR 50.59, ‘Changes, Tests, and Experiments.’” is a proposed revision temporarily identified by its task number, DG-1334. DG-1334 is proposed revision 1 of RG 1.187, “Guidance for Implementation of 10 CFR 50.59, ‘Changes, Tests, and Experiments.’” The draft regulatory guide provides licensees and applicants with a method that the NRC staff considers acceptable for use in complying with the Commission’s regulations on the process by which licensees may make changes to their facilities and procedures as described in the safety analysis report, without prior NRC approval, under certain conditions. The NRC has also prepared a regulatory analysis (ADAMS Accession number ML16089A379) in support of DG-1334.

This draft regulatory guide clarifies potentially unclear statements in Section 4.3.8 of Nuclear Energy Institute document 96-07, Revision 1, “Guidelines for 10 CFR 50.59 Implementation,” (ADAMS Accession number ML003771157) which was endorsed in RG 1.187, Rev 0, (ADAMS Accession number ML003759710) as acceptable guidance for how to comply with NRC regulations in section 50.59 of title 10 of the *Code of Federal Regulations* (10 CFR). Because of the potentially unclear statements in Section 4.3.8 of NEI 96-07, licensees may misinterpret the definition governing the “...departure from a method of evaluation...” described in the plant’s final safety analysis report (as updated).

The draft regulatory guide also adds clarification to statements in Section 4.3.5 of NEI 96-07, Revision 1, whereby licensees may misinterpret the last sentence in the second paragraph in Section 4.3.5 if considered in isolation of the statements earlier discussed in the paragraph.

III. Backfitting and Issue Finality

Draft regulatory guide DG-1334, if finalized as Regulatory Guide 1.187, Revision 1,

would provide guidance on acceptable ways of determining whether licensees may make changes to their facilities and procedures as described in the safety analysis report, without prior NRC approval, under the change process established in 10 CFR 50.59. The draft regulatory guide, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52, "Licenses, Certifications and Approvals for Nuclear Power Plants." The subject of this draft regulatory guide, as described above, is an NRC-defined process which does not fall within the purview of subjects covered by either the Backfit Rule or the issue finality provision in 10 CFR part 52. Issuance of the draft regulatory guide, in final form, would not constitute backfitting, and no further consideration of backfitting is required in order to issue the draft or final regulatory guide in final form.

Dated at Rockville, Maryland, this 19th day of December, 2016.

For the Nuclear Regulatory Commission.

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